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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,167	10/20/2003	Heinz H. Busta	100077	6389
29050	7590	03/04/2005		
STEVEN D WESEMAN, ASSOCIATE GENERAL COUNSEL, IP CABOT MICROELECTRONICS CORPORATION 870 NORTH COMMONS DRIVE AURORA, IL 60504			EXAMINER PRENTY, MARK V	
			ART UNIT 2822	PAPER NUMBER

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/689,167

Applicant(s)

BUSTA, HEINZ H.

Examiner

MARK V. PRENTY

Art Unit

2822

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-57 is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>October 20, 2003</u> . | 6) <input type="checkbox"/> Other: _____ |

This Office Action is in response to the papers filed on October 20, 2003.

Claims 4 and 9 are identical. Correction is required.

The specification's Brief Description of the Drawings is objected to. Specifically, "FIGS. 4-12" (paragraph [23]) should read "FIGS. 4-6, 7(a), 7(b), 8, 9, 10(a), 10(b), 11 and 12," and "FIGS. 38-50" (paragraph [41]) should read "FIGS. 38, 39(a), 39(b), 40-43, 44(a), 44(b) and 45-50." Correction is required.

Claim 5 is objected to because "said lever mechanism" lacks antecedent basis. Claim 5 should apparently depend on claim 4, which recites a lever mechanism.

Claim 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Blair et al. (UK Patent Application GB 2 365 988 – hereafter Blair).

With respect to independent claim 1, Blair discloses a MEM device (see the entire reference, including the Fig. 1 disclosure, for example), comprising: a movable micromachined structure 14; and a diamond material disposed along a surface of said micromachined structure (see page 6, lines 15-16).

Claim 1 is thus rejected under 35 U.S.C. 102(b) as being anticipated by Blair.

With respect to dependent claim 2, Blair's MEM device operates as a switch (see Blair's claim 10).

Claim 2 is thus rejected under 35 U.S.C. 102(b) as being anticipated by Blair.

Claims 3, 4 and 6-10 are objected to as being dependent upon a rejected base claim, but would be allowable over the prior art of record if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

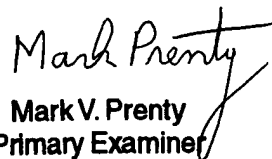
Claims 11-57 are allowable over the prior art of record.

Art Unit: 2822

United States Patent 6,290,859 (Fleming et al.) and United States Patent 6,798,029 (Volant et al.) are relevant to this application.

United States Patent Application Publication 2005/0040484 (Busta) is related to this application.

Registered practitioners can telephone the examiner at (571) 272-1843. Any voicemail message left for the examiner must include the name and registration number of the registered practitioner calling, and the Application/Control (Serial) Number. Technology Center 2800's general telephone number is (571) 272-2800.


Mark V. Prenty
Primary Examiner